

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA : Criminal Action No.

5 v. : PWG 18-214

6 KAMLESH CHAUHAN, : Greenbelt, Maryland

7 Defendant. : November 26, 2018

8 _____/ 2:40 P.M.

9
10 TRANSCRIPT OF GUILTY PLEA PROCEEDINGS
11 BEFORE THE HONORABLE PAUL W. GRIMM
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

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25 COMPUTER-AIDED TRANSCRIPTION OF STENOTYPE NOTES

P-R-O-C-E-E-D-I-N-G-S

MS. WEISMAN: Good afternoon, Your Honor. This is the case of United States versus Kamlesh Chauhan, Criminal Number PWG 18-0214.

Hollis Weisman representing the government. I'm here with Special Agent India Norman of the Agriculture OIG.

THE COURT: Mr. Nathans, you're here on behalf of the defendant, sir?

MR. NATHANS: I am, Your Honor. Thank you. Good afternoon.

THE COURT: All right. Everyone can have a seat.

All right. Mr. Chauhan, I've been advised that you're here today to enter a plea of guilty in accordance with a Plea Agreement that was authored on September 11th of this year and sent by the Assistant United States Attorney to Mr. Nathans, your attorney. And before I can accept the plea, I need to ask you quite a few questions and have your answers provided under oath. And so, the first thing I need for you to do is sit down. You can remain seated throughout these proceedings, but raise your right hand so that my -- the courtroom deputy of our courtroom can administer the oath and we'll start right after that's done.

KAMLESH CHAUHAN, DEFENDANT, SWORN

THE COURT: All right. Would you tell me please your full name?

1 THE DEFENDANT: Kamlesh Chauhan.

2 THE COURT: And would you spell your name for the
3 record?

4 THE DEFENDANT: K-A-M-L-E-S-H C-H-A-U-H-A-N.

5 THE COURT: All right. Mr. Chauhan, the plea offer
6 that was sent from the Assistant United States Attorney to your
7 attorney was written in English and appears to have been signed
8 by you and Mr. Nathans on the, September the 17th of this year
9 as well as the Statement of Facts that supports the guilty plea.

10 Do you have any difficulty reading and understanding a
11 document such as the one that you signed that was written in
12 English?

13 THE DEFENDANT: No.

14 THE COURT: Can you tell me how far you have gone in
15 school, sir?

16 THE DEFENDANT: I'm Ph.D in chemistry.

17 THE COURT: All right. And so, I gather that you were
18 able to understand the letter and the Statement of Facts before
19 you signed it. Is that right, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Did you have sufficient time to discuss
22 the Plea Agreement with Mr. Nathans before you signed it?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Are you satisfied with the legal
25 assistance he's provided you in this case?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Are you pleading guilty
3 voluntarily, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: Has someone tried to force you against
6 your will to plead guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right. And have you had enough time
9 to carefully consider whether this is the proper thing for you
10 to do today?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. Tell me please whether you
13 have any physical or mental situation or condition or diagnosis
14 that would in any way prevent you from making an important
15 decision today.

16 THE DEFENDANT: No, I don't have any.

17 THE COURT: And do you take any medication or have you
18 consumed any substance of any kind whatsoever that would
19 interfere with your ability to make an important decision today?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. Mr. Nathans, I take it that you do
22 not have any reason to question the capacity of your client to
23 exercise his rights here today, sir. Is that right?

24 MR. NATHANS: I do not, Your Honor.

25 THE COURT: All right. Thank you.

1 I think, sir, that the easiest way for us to deal with
2 this is to start with the plea letter that you have told me
3 you've reviewed and signed, and just go through it.

4 Do you have a copy of it before you?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right, very good.

7 The first thing is that this on page one says, it's a
8 plea agreement that has been entered into in accordance with
9 Federal Rule of Criminal Procedure 11(c)1(C). That's a
10 important rule, because what that means is that this is a plea
11 agreement where you through your attorney and the United States
12 Attorneys' office are asking that I impose a very specific
13 sentence. In this instance, ten months and I'll talk about that
14 in just a moment, ten months incarceration.

15 The way in which a plea agreement under Rule 11(c)1(C)
16 operates is that at the guilty plea, the judge listens to the
17 information in the guilty plea and before it's over advises
18 whether he will agree to be bound by that specific recommended
19 plea. Recommended by the government and recommended by your
20 attorney.

21 Now, this agreement by the judge is provisional. And
22 what that means is, is that since all the information that the
23 judge needs to have in order to decide the specific sentence in
24 a case is not contained in the plea agreement, but will be
25 significantly augmented by other information that will be

1 brought to the attention of the judge before the sentencing, to
2 include a Presentence Report prepared by the probation officer.
3 And in an offense like this and many others may also include a
4 statement by the victim.

5 So that what would happen is, is that at the time of
6 the actual sentencing that will be scheduled today, if I accept
7 the plea, I will have to at that time announce whether I agree
8 unconditionally to be bound by the specific sentence recommended
9 in the Plea Agreement.

10 If I say that I will be unconditionally bound, then I
11 will impose that specific sentence in accordance with the
12 agreement reached with the prosecutor's office. If I say that I
13 will not be bound by that, then you have the right to withdraw
14 your guilty plea and to proceed to trial. And the United States
15 also would have the right to withdraw the guilty plea.

16 That is what is meant in that first paragraph when the
17 agreement says that this is a guilty plea that is provided to
18 the Court, that would be me, under Federal Rule of Criminal
19 Procedure 11(c)(1)(C).

20 Do you understand what that provision means, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. And I will advise before I
23 accept the plea whether I will provisionally be bound by that.

24 The charge that you're pleading guilty to, sir, is in
25 an Indictment. And it's specifically Count Three of the

1 Indictment. It charges you with abusive sexual contact in
2 violation of 18 United States Code Section 2244(b). If this
3 case were to go to trial, the government would have to prove the
4 following elements of proof beyond a reasonable doubt to the
5 jury and they would have to prove the following:

6 Number one, that you engaged in sexual contact.

7 Secondly, that you acted knowingly when you engaged in
8 that sexual contact.

9 Three, that you did so with the intent to abuse,
10 humiliate, harass, degrade or arouse or gratify the sexual
11 desire of any person.

12 And, four, that this was done on lands within the
13 special maritime and territorial jurisdiction of the
14 United States.

15 Sir, a person found guilty of this statutory offense
16 faces the following potential statutory maximum punishment.
17 There is no mandatory minimum period of imprisonment. The
18 maximum period of imprisonment is two years followed by a
19 maximum period of supervised release of one year, a fine that
20 may not exceed \$250,000, and a special assessment that has two
21 components. A mandatory \$100 special assessment, plus a
22 mandatory \$5000 additional special assessment required by
23 18 United States Code Section 3014.

24 When I refer to supervised release, supervised release
25 is a period of court-ordered supervision that begins once any

1 sentence of imprisonment has been fully served by the defendant.
2 The conditions of supervised release are set on the day when the
3 judge imposes a sentence.

4 And some of those conditions are standard conditions,
5 such as the defendant may not commit any new offenses, but some
6 may be specifically tailored to that particular person. So, for
7 example, it may require mental health counseling and treatment.
8 They might require for a person who has a drug substance abuse
9 problem that they be tested and treated for any substance abuse.

10 So, there can be various conditions that the judge
11 sets as part of supervised release and those are imposed on the
12 day that the sentence is imposed.

13 When the supervised release begins, if the defendant
14 does not violate any conditions of supervised release during the
15 time of the supervision, when that deadline is over, then the
16 sentence is completely served and there is no further obligation
17 unless there is a legal obligation. For example, in sex offense
18 cases, to register for the sex offender registry that may last
19 beyond the period of supervised release.

20 If the probation officer supervising the defendant
21 during supervised release believes the defendant has violated
22 the conditions of supervised release, then the probation officer
23 files a petition with the court asking the judge to schedule a
24 hearing.

25 The defendant has the right to have a lawyer at that

1 hearing and the government would have to establish that there
2 was a violation of the supervised release. If the hearing
3 establishes a violation, then the judge has a number of options.

4 If the violation is minor, a technical violation might
5 leave everything exactly the way it is; not modify the
6 supervised release or extend the period of supervised release.

7 If it's more serious, for example, if a person is
8 supposed to get mental health treatment and they don't show up,
9 or they do something else which is more serious, then the judge
10 might add additional conditions and could make the supervised
11 release last a longer period of time.

12 If it is a more serious offense still, then the judge
13 may revoke supervised release and resentence the defendant.
14 That sentence could include an additional period of
15 imprisonment, but it could not exceed the length of the
16 supervised release.

17 Now, I want to make sure before we go any further that
18 you know the charge you're pleading guilty to, that you
19 understand that. You understand the essential elements that
20 would have to be proved by the government if this case went to
21 trial. And that you know the maximum statutory punishment that
22 could be imposed. Do you understand that, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. I want to talk about some
25 important constitutional rights that you give up, sir, by

1 pleading guilty. First, you need to understand that the
2 defendant is never required to prove that he is not guilty. The
3 government must prove that he is guilty. And they must do that
4 by introducing evidence at a trial that will convince the fact
5 finder, usually a jury -- we'll talk about that in just a
6 moment -- that they've proved each essential element of the
7 charge beyond a reasonable doubt.

8 The defendant has no burden of proof. The defendant
9 is not required to present a defense, is not required to
10 testify. The defendant has a constitutional right under the
11 Fifth Amendment of the United States constitution not to be
12 compelled to provide a testimonial statement, either by word of
13 mouth or in writing that would help the government prove the
14 charges against him.

15 The defendant's right to counsel is such that if the
16 defendant has the resources to hire an attorney, then he may
17 hire an attorney of his own choosing. If he does not have the
18 funds to hire an attorney, the court will appoint one.

19 And he has the right to have representation by an
20 attorney at all critical phases of a prosecution, and that
21 includes trial. It's not simply limited to a guilty plea.

22 The defendant, as I mentioned, has a right to a jury
23 trial. The right to a jury trial is considered so important
24 that the court does not have the authority to try a defendant
25 without a jury unless both the defendant and the government ask

1 that there be no jury. And for felonies, that almost never
2 happens. So I want to make sure you understand what is meant by
3 a jury trial.

4 The trial by jury means the decision as to whether the
5 government has proved the charges beyond a reasonable doubt is
6 not made by the judge, but rather is made by members of the
7 community.

8 Those members of the community are selected from the
9 people who have registered to vote in the counties that fall
10 with in Southern Division of the United States District Court
11 for the District of Maryland.

12 There are two divisions in our court. One is in
13 Baltimore. This one is in Greenbelt. And the counties that are
14 in the Southern Division include Montgomery County, Prince
15 George's County, St. Mary's County, Charles County and Calvert
16 County. And so jurors who participate in trials in this
17 courthouse are selected from the people registered to vote in
18 those counties.

19 When the jury is picked, on the day the jury is to be
20 picked, the court has sent a summons and has identified a list
21 of people, usually between 40 and 70, depending upon how long
22 the trial may take, who are required to come into court and be
23 considered for selection to serve on a jury.

24 Once they arrive, the panel of potential jurors
25 arrive, then the judge makes sure that they are -- they take an

1 oath in which they agreed to answer questions truthfully. The
2 lawyer for the defendant and the lawyer for the government
3 submit a list of questions to the judge and the judge reviews
4 those question, may modify them or add to them, but asks every
5 member of the jury panel those same set of questions.

6 They are designed to make sure that any person that is
7 considered for the jury can be fair and impartial. Fair to the
8 government and fair to the defendant. And if the member of the
9 jury panel answers a question in a way that makes it doubtful
10 whether they can be fair and impartial, fair to the government
11 and fair to the defendant, then at that time they will be
12 removed for cause and they will not be considered for selection
13 on the jury.

14 When anyone who has been moved for cause is eliminated
15 from consideration, then the defendant and the government can
16 remove still another group of people through what are known as
17 peremptory challenges. The defendant has ten peremptory
18 challenges, the government only has six.

19 The only limit on the exercise in peremptory
20 challenges is that it cannot be exercised to strike someone from
21 jury consideration based on their race, national origin, gender,
22 religious beliefs or things of that nature. Otherwise then,
23 there are no limitations on peremptory challenges.

24 When the peremptory challenges have been exercised,
25 the remaining pool of the jury panelists who have not been

1 eliminated for cause or stricken peremptorily are considered and
2 the defendant and the government select 12 members to serve on
3 the jury, plus one alternate for every week of anticipated
4 trial.

5 They are then sworn a second time to be fair and
6 impartial, and the trial begins. Because the only burden of
7 proof in a criminal trial rests with the government, the
8 government goes first. And they must call witnesses to testify
9 against the defendant. And any witness called must testify in
10 court in the presence of the defendant and testify under oath,
11 and subject to cross-examination by the lawyer for the
12 defendant. Each and every witness must submit to
13 cross-examination and appear in the physical presence of the
14 defendant and testify under oath.

15 If the government offers other evidence beyond
16 testimony of witnesses, documents, exhibits, recordings,
17 photographs, any information other than the testimony of a
18 witness, then the defendant through his attorney can object to
19 evidence being considered by the jury and the trial judge has to
20 decide whether the jury can hear it.

21 Once the government finishes its case, the defendant
22 now has a choice. Because the law presumes that the defendant
23 is innocent and because the defendant has no burden of proof in
24 a criminal case, the defendant is not required to testify, has
25 no obligation to testify, does not have to call witnesses, does

1 not have to present evidence. And the defendant could simply
2 say, I am not going to present a defense. I will argue to the
3 jury that the government has failed to prove its case. That's
4 one option.

5 In addition, the defendant has other options. The
6 defendant has a right to present a defense if the defendant
7 chooses to do so. If the defendant chooses not to present a
8 defense, the judge has got to instruct the jury that they cannot
9 hold that against the defendant. They can't draw any adverse
10 inference against the defendant merely because the defendant
11 exercised his constitutional right and did not testify or
12 present a defense.

13 If the defendant instead chooses to testify, he has
14 the right to do so, but not the obligation. And he testifies
15 under oath subject to cross-examination like any other witness.

16 If the defendant does not want to testify personally,
17 but has other witnesses who can provide truthful testimony to
18 support a defense, then the defendant's lawyer asks the judge to
19 issue a summons to order those witnesses to come into court and
20 be available to testify on behalf of the defendant.

21 If the defendant chooses to present a defense, whether
22 testifying himself and producing witnesses; or simply testifying
23 himself or simply producing witnesses, then after those
24 witnesses testify, the government can cross-examine them just
25 the way the defendant can cross-examine the government

1 witnesses.

2 If the defendant presents a defense and the government
3 has the opportunity to present a rebuttal defense, a rebuttal
4 case, All witnesses who testify in rebuttal must be in the
5 presence of the defendant, testify under oath and testify under
6 cross-examination.

7 When all the evidence is done, the judge instructs the
8 jury on the law that they must apply when they deliberate. And
9 then the lawyers argue to the jury what they think that the case
10 has been proven or not proven, and the jury goes and deliberates
11 in secret.

12 A jury may not find the government has proved its case
13 against the defendant unless the jury unanimously agrees, all 12
14 agree the government proved each element of the essential
15 elements of proof beyond a reasonable doubt.

16 If the jury renders a verdict against the defendant,
17 the government -- the defendant has a right to appeal and the
18 defendant's right to appeal is unlimited. They may raise -- the
19 defendant may raise any ground of law or fact that the defendant
20 believes is a ground for an appeal.

21 This collection of rights, the right not to
22 incriminate yourself, the right to counsel throughout all
23 critical proceedings, including at trial; the right of
24 confrontation of witness, to have them testify in your presence,
25 the presumption of innocence, all of those rights are waived or

1 given up by pleading guilty.

2 A person who pleads guilty gives up the right against
3 self-incrimination because they admit their guilt. They give up
4 the right to have witnesses testify because the only Statement
5 of Facts to support the guilty plea is read into the record by
6 the prosecutor, and is the Statement of Facts you have
7 previously reviewed and signed.

8 So, when I explain to you the rights associated with a
9 jury trial, do you understand what those rights are, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: I'm sorry.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you understand that by pleading
14 guilty, you waive or give up all of those rights?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Now, there can be additional consequences
17 of pleading guilty. A person who pleads guilty to a felony may
18 not possess a firearm or destructive device. They may not be
19 eligible to serve on a jury or to vote, or to run for public
20 office.

21 If they are not an American citizen, they may be
22 subject to removal from the United States. They may also be
23 ineligible for various federal government benefits. And if a
24 person pleads guilty to an offense and is under court
25 supervision by some other courts, state or federal, the guilty

1 plea to the new offense in federal court could violate some
2 Court Order by another court and subject the defendant to
3 additional grounds in those cases. Do you understand that there
4 can be collateral consequences of pleading guilty separate,
5 apart from any criminal sentence. Do you understand?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, I told you what the maximum statutory
8 punishment was in this case. There's no mandatory minimum.
9 There's a two year maximum. But before the judge can sentence
10 the defendant, the judge is required by law to calculate the
11 sentencing guidelines.

12 Congress created a Sentencing Commission. The
13 Sentencing Commission catalogs also offenses under federal law.
14 And the judge is obligated to accurately calculate the
15 guidelines before the judge can impose a sentence in every
16 single federal case where the guidelines apply.

17 The guidelines classify every offense on the numerical
18 scale. There are two aspects of that scale. The first deals
19 with the offense level. The offenses are ranked in order from
20 one to 43. The higher the rank, the more serious the offense.

21 The second ground under which there is a ranking is
22 the criminal history of the defendant. The sentencing theory is
23 that a person who has never been convicted before requires a
24 lesser sentence than a person who has been convicted many times
25 and continues to violate the law.

1 So what the judge is required to do before the judge
2 can impose a sentence is calculate the guidelines. The judge
3 begins with a base offense level for each offense in the
4 guidelines. It may be increased or decreased based upon
5 specific circumstances that are particular to that case. In
6 this particular instance, there's a two-level increase above the
7 base offense level because the victim in this case was within
8 your supervisory control, care or custody.

9 And once the government -- once the court has
10 calculated the base offense level and increased it or decreased
11 it in accordance with any other provisions of the guidelines,
12 then the judge can depart from the recommended guidelines
13 sentence. If the judge applies some other provision of the
14 guidelines themselves allow the judge to either increase or
15 decrease the sentence above or below what the recommendation
16 would be.

17 The judge can also vary when he sentences the
18 defendant and impose a sentence that's not within the guidelines
19 based upon consideration of factors other than the guidelines
20 themselves. And those factors are found at 18 U.S. Code Section
21 3553. And they tell the judge to consider the history and
22 characteristics of the defendant, nature of the offense, any
23 dangerousness to the community, what type of sentence would
24 promote respect for the law, what type of sentence would deter
25 the defendant and others from committing similar offenses.

1 What is a recommendation of the guidelines? How have
2 other defendants who have been sentenced for similar offenses
3 been sentenced by the court and what are the recommendations of
4 the guidelines.

5 So, those three steps; the statute, the guidelines and
6 the 18 U.S. Code 3553 sentencing factors are the steps the judge
7 must follow.

8 In a second I want to go over the guidelines
9 stipulation, which is an agreement reached between you and the
10 government as to the offense level that will apply when I
11 sentence you if I accept your plea. But before I do so I want
12 to make sure that you understand in general the process that the
13 judge must go through in determining a sentence. As I have
14 explained it to you, sir, do you understand that process?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. Now, the guideline stipulation
17 beginning at page four of your agreement says that the base
18 offense level is a 12. It's increased two points because the
19 victim was in the custody, care or supervisory control of you.

20 There will be a two-level reduction agreed to by the
21 United States because you have accepted responsibility today by
22 pleading guilty. That mean that the adjusted offense level will
23 be a 12. There is no agreement as to your criminal history, so
24 I do not know whether it's a criminal history category one, two,
25 three, four, five or six. But for an offense level 12, the

1 range of possible sentences runs from ten months to 16 months
2 for an offense -- a criminal history category one up to a
3 maximum of 30 to 37 months for a criminal history category of
4 six.

5 Unlike the statute, which is mandatory and the judge
6 has no discretion to deviate from, the guidelines are a
7 recommended sentence and the judge, as I have indicated to you,
8 may depart between the guidelines and give a different sentence
9 than recommended by the guidelines, or give a variant sentence
10 outside the guidelines. So, do you understand the guidelines
11 stipulation that will apply in your case, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. As I mentioned to you, this is
14 a plea under Federal Rule of Criminal Procedure 11(c)(1)(C). I
15 have been advised that it has been agreed between you and your
16 lawyer and the United States government that there will be a
17 joint recommendation of ten months imprisonment based upon the
18 facts of this particular case, and the factors set forth in
19 18 U.S. Code Section 3553(a).

20 Now, I told you that I have to announce today whether
21 I will provisionally accept the plea. I will agree to do that
22 subject only to my ability to withdraw that approval if there's
23 something in the Presentence Report or the materials provided to
24 me prior though actual date of sentencing to convince me that
25 that would not be a fair and appropriate sentence. But as of

1 right now from limited information I have, I will provisionally
2 agree to be bound to impose that sentence.

3 The parties are obligated at the time of sentence to
4 recommend the agreed upon term of imprisonment. That's an
5 obligation on the government and on you. And in the event that
6 I impose that specific sentence that has been recommended, then
7 neither you nor the United States government may appeal. If I
8 determine at time of sentencing that I will not approve that
9 specific sentence, I must tell you and the government, and give
10 each of you an opportunity to withdraw from the guilty plea and
11 proceed to trial.

12 The sentencing in this case is likely going to include
13 an Order of Restitution for the full amount of any losses
14 sustained by the victim. If that number dollar amount is not
15 agreed upon, then it will have to be determined by the court
16 after a hearing.

17 And as part of the sentence in this case, you would be
18 obligated to register as a sex offender in the place where you
19 reside in accordance with the Federal Sex Offender Registration
20 and Notification Act. Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Now, under the terms of this
23 Plea Agreement, once you've entered into it, you may not
24 obstruct justice. You may not commit any new federal, state or
25 local offense. You may not withdraw your guilty plea. You must

1 answer all questions of the probation officer honestly as well
2 as provide any information honestly to the court or to law
3 enforcement agents or probation officers and you will cooperate
4 in preparation of the Presentence Report, and you may not file a
5 motion to withdraw your guilty plea.

6 Should you do that, then the United States Government
7 would not be bound by the limitations of this court to include
8 the limitation on a recommended sentence under Rule 11(c)1C.

9 In addition, there is a provision in the Plea
10 Agreement that the Plea Agreement and its attachment constitute
11 the entire agreement. What that means is, you have not been
12 promised anything by the government and the government has not
13 promised you anything that's not written down in this agreement.
14 Do you understand this plea agreement is the entire agreement
15 between the parties.

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Mr. Nathans, I'm going to ask
18 you to make sure the headset works for your client and then I'm
19 going to conduct the sealed portion of this proceeding. And
20 I'll ask counsel to approach once you've made sure that the
21 headset works.

22 (Bench conference.)

23 It is the policy of this court that every guilty plea
24 and sentencing proceeding include a bench conference concerning
25 whether the defendant is or is not cooperating.

1 (Open court.)

2 (Bench conference.)

3 THE COURT: All right. Counsel, this is not --

4 MR. NATHANS: Your Honor, before we get to the sealed
5 part, I think the Plea Agreement that you received didn't have
6 the full agreement in it. So the --

7 THE COURT: The what?

8 MR. NATHANS: The full agreement.

9 THE COURT: I saw that in the Statement of Facts. Is
10 there something different?

11 MR. NATHANS: Well, I think you've said something
12 about restitution and I wanted to make clear that the parties
13 agree there is no restitution.

14 MS. WEISMAN: That's correct. We added it to
15 paragraph ten.

16 THE COURT: I'm sorry.

17 MS. WEISMAN: We added it to paragraph ten.

18 THE COURT: No additional charges arising out of this
19 incident; does not seek restitution.

20 All right. I'll put that on the record once we're off
21 the sealed portion.

22 MS. WEISMAN: Thank you, Your Honor.

23 And there are also, I think, the Statement of Facts is
24 the same. So I'll come back to paragraph ten and revise that.

25 MR. NATHANS: Your Honor, there is also provisions

1 about forfeiture, which is standard and there's no forfeiture in
2 this case.

3 THE COURT: All right. Other than that, there's
4 nothing else to put on the record under seal at this time.

5 MR. NATHANS: No, sir.

6 MS. WEISMAN: No.

7 THE COURT: Thank you. Go back on the record.

8 (Open court.)

9 THE COURT: All right. Sir, I want to make one
10 revision of the terms of the Plea Agreement. In the final
11 version that you signed of the Plea Agreement, there's been a
12 modification of paragraph ten. And what that adds to paragraph
13 ten is the following language: "The government will bring no
14 additional charges arising out of this incident and is not
15 seeking restitution."

16 So, I said that in the original draft of the Plea
17 Agreement there was an agreement that you pay restitution. That
18 has been removed by the modification to the Plea Agreement. So
19 I want to make sure that you understand that there is not any
20 restitution that will be sought by the government in this case.
21 And it does agree that no additional charges arising out of the
22 facts that led to this charge will be brought if I accept the
23 plea and bind myself to the specific sentencing.

24 In addition, the --

25 So, this agreement at paragraph ten, which is written

1 in -- handwritten in and initialed by the parties modifies
2 paragraph 12, which does say that there will be a Restitution
3 Order and modifies that by removing any possibility of
4 restitution. In addition, I'm advised by counsel that there is
5 no forfeiture that will be sought at the time of sentencing.
6 Do you understand those modifications I've just explained to
7 you, sir?

8 THE DEFENDANT: Yes, sir.

9 MR. NATHANS: Thank you, Your Honor.

10 Your Honor, I apologize. We wrote the language in
11 today and I want to be clear what I believe the language was
12 intended to mean. It meant the course of conduct that was
13 alleged between my client and the alleged victim, that no
14 additional charges would be brought. The three charges have
15 been indicted, but no additional charges and that he would be
16 pleading to Count Three. Thank you.

17 THE COURT: Right. Well, it's my -- I anticipate that
18 if I accept the plea, that at the time of sentencing, if I
19 impose the sentence that's been agreed upon, the government will
20 dismiss all of the remaining counts of the indictment and, at
21 least, as initialed by yourself and the government will agree
22 not to bring any additional charges.

23 MR. NATHANS: Thank you, Your Honor.

24 THE COURT: Is that your understanding as well?

25 MS. WEISMAN: Yes, Your Honor.

1 THE COURT: All right. Very good.

2 MR. NATHANS: Thank you. I'm sorry. I'm just not
3 sure we were clear enough with the language.

4 THE COURT: Well, whether you're clear enough or not,
5 it's the language you all wrote into it. So, I think the record
6 is clear now based upon what you just said.

7 All right. I think right now what I'd like to have is
8 that the -- I'm going to ask the United States to read into the
9 record the Statement of Facts supporting this guilty plea.
10 Please do so slowly and carefully so that the court reporter can
11 take it down for the record.

12 Now, sir, you've been listening carefully. Continue
13 to do so please. I'm going to ask you some more questions after
14 the Statement of Facts has been onto the record and then I'll
15 ask what your plea is.

16 MS. WEISMAN: Thank you, Your Honor.

17 At all relevant times, the victim was a research
18 entomologist for the Department of Agriculture assigned to the
19 Beltsville Agriculture Research Center, known as BARK located in
20 Beltsville, Maryland. The defendant, Kamlesh Chauhan, was also
21 a research entomologist at the same facility.

22 Sometime after they both started working at BARK in
23 2001, the victim and the defendant began working together and
24 the defendant became the victim's supervisor. On multiple
25 occasions, the defendant kissed the victim without the victim's

1 consent, sometimes asking the victim to come into his office and
2 sometimes committing the actions in a laboratory.

3 At other times, the defendant kissed the victim's
4 breast, placed his hand beneath her clothing and pushed the
5 victim against a wall where he kissed her on the face all
6 without the victim's consent. The victim repeatedly told the
7 defendant that she did not want to have any such contact with
8 him.

9 On March 30th, 2008, the victim was in the defendant's
10 office.

11 THE COURT: Do you mean '18?

12 MS. WEISMAN: 2018, I'm sorry. The victim was in the
13 defendant's office. The defendant told the victim to stand up
14 for a hug and tried to kiss the victim. The defendant touched
15 the victim's right breast and tried to remove the victim's
16 shirt. The victim pulled the shirt back down and left.

17 BARK is located on lands within the special maritime
18 and territorial jurisdiction of the United States.

19 THE COURT: Thank you.

20 All right. Mr. Chauhan, the document that has just
21 been read into the record is Attachment A to the Plea Agreement
22 and bears your signature. Having heard those facts read into
23 the record here today, do you agree that those facts are true?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you agree that if this case went to

1 trial, that the United States could prove this facts beyond a
2 reasonable doubt.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Now, before I ask you what
5 your plea is to Count Three of the Indictment, the count that
6 you're pleading guilty to, I've explained a lot of information
7 to you this afternoon and I want to make sure that if there's
8 anything you're not certain of or you don't understand, that you
9 have an opportunity to let me know at this time so I can make
10 sure I have fully answered any questions you have.

11 Is there anything further you want me to explain that
12 you don't understand about what I've already explained to you?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. Are you satisfied that your
15 decision to plead guilty today is your own voluntary act?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And are you satisfied that you are doing
18 so and not as a result of any threats or coercion that have
19 overcome your free will? That has not happened, has it?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: It has not happened? No one has tried to
22 force you against your will to plead guilty?

23 THE DEFENDANT: So far not.

24 THE COURT: Let's try that again. It's a double
25 negative.

1 Has anyone tried to force you against your will to
2 plead guilty?

3 THE DEFENDANT: No.

4 THE COURT: All right. Having heard everything that
5 I've explained to you, please tell me at this time, what is your
6 plea to Count Three of the Indictment now pending against you,
7 which charges you with abusive sexual contact in violation of
8 18 United States Code Section 2244(b), how do you plead, sir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: What is your plea? Is it guilty or not
11 guilty?

12 THE DEFENDANT: Plead guilty.

13 THE COURT: All right. I make the following findings
14 of fact. The defendant, Mr. Chauhan, is here in court. He's
15 represented by competent and experienced counsel. I have
16 determined based upon my questions put to him and he has
17 answered under oath that he is competent to exercise his rights
18 today and is doing so voluntarily, knowingly and intelligently
19 without the product of any coercion or force.

20 He understands the offense he's pleading guilty to or
21 has pled guilty to, the elements of those offense, the maximum
22 statutory punishment which does not include a mandatory minimum.
23 He understands the Constitutional rights he gives up or waives
24 by pleading guilty. He understands the factual advisory
25 stipulation that will govern the calculation of the offense

1 level at the time of the sentencing.

2 He knows that this is a special plea under Rule
3 11(c)1(C) where it will be recommended to me that I impose a
4 sentence of ten months imprisonment. And that if I were to
5 revise my agreement to be bound by that specific plea, I would
6 have to notify him and the government of that at the time of
7 sentencing, and afford them an opportunity to withdraw from the
8 plea.

9 He understands the obligations of the parties as they
10 have been explained in the letter, which he has read carefully,
11 understood and signed with the same being true for the Statement
12 of Facts.

13 He understands that he has waived the right to appeal
14 if I bind myself to the recommended sentence and that his
15 sentence will include the obligation to register under the Sex
16 Offender Registration Act.

17 And he knows what conduct he may not commit between
18 now and the time of sentencing, and that everything he has
19 promised the government and the government has promised him has
20 been reduced to writing as part of this signed agreement, which
21 is the entire agreement.

22 I have listened carefully to the Statement of Facts.
23 It supports a finding of guilt beyond a reasonable doubt to each
24 of the essential elements of proof for the charge to which he
25 has pleaded guilty. And I, therefore, find he has knowingly,

1 intelligently and voluntarily entered into this plea of guilty.
2 I accept his plea of guilty. I adjudge him guilty of the
3 offense to which he has pleaded.

4 I will sign a sentencing order that sets the deadline
5 for the preparation for the Presentence Report and sets the
6 sentencing in this case. That sentencing date is March 12th of
7 2019 at 1:00 p.m.

8 Between now and that date, the probation officer will
9 meet with you and your attorney, and interview you to get the
10 information to include in the Presentence Report. The
11 Presentence Report will be provided to your attorney prior to
12 sentencing and he will review it carefully with you. And the
13 government will have an opportunity to review the Presentence
14 Report as well.

15 If either your lawyer or you, or the government
16 believe that there is an error or there is something incomplete
17 in the Presentence Report, then you will make that known to the
18 probation officer who will reconsider the report. If the
19 probation officer agrees that there is a revision needed, the
20 probation officer will revise the Presentence Report. If the
21 probation officer does not agree to revise the report, the
22 probation officer will identify any dispute for me to resolve at
23 the time of sentencing.

24 When we return for sentencing, I will have reviewed
25 any victim statement provided to me before the sentencing, as

1 well as any written materials provided by the lawyer for the
2 United States or by your lawyer.

3 When I come back, I will announce whether I am
4 agreeing to be unconditionally bound by the "C" plea. If I am,
5 I will sentence according to the specific sentence recommended
6 by the parties. If I am not, I will give each side the
7 opportunity to withdraw from the plea. At the time of
8 sentencing, I will calculate the guidelines range that includes
9 the -- not only the calculation for the offense level, but also
10 the criminal history category.

11 I will listen to any argument by the United States and
12 your lawyer. You will have the right, but not the duty to make
13 a statement to me. And any statement that you make, I will
14 consider before I impose a sentence. And if you choose not to
15 make a statement, I will not draw any adverse inference.

16 When I have heard all the materials at the sentencing,
17 which will include the opportunity for the victim to be heard at
18 the sentencing as well, I will announce the guidelines factors
19 under 18 U.S. Code Section 3553 that I find important, and I
20 will sentence you, if I accept the "C" plea, to the specific
21 period of ten months imprisonment as recommended. Because if I
22 make that determination, I will have concluded that it is
23 sufficient but not greater than necessary to fulfill the
24 sentencing obligations imposed on trial judges by Congress.

25 Is there anything further we need to address now from

1 point of view of the government?

2 MS. WEISMAN: No, thank you, Your Honor.

3 THE COURT: Anything further from the defense?

4 MR. NATHANS: No, Your Honor. Thank you.

5 THE COURT: All right. We are now in recess.

6 (Recess at 3:24 p.m.)

7 * * *

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10 CERTIFICATE OF COURT REPORTER

11 I, Linda C. Marshall, certify that the foregoing is a

12 correct transcript of the record of proceedings in the

13 above-entitled matter.

14

15

16 /s/

17 Linda C. Marshall, RPR
18 Official Court Reporter

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